

SANDERS LAW GROUP

Craig Sanders, Esq. (Cal Bar 284397)
Jacqueline Mandel, Esq. (Cal Bar 317119)
333 Earle Ovington Blvd, Suite 402
Uniondale, NY 11553
Tel: (516) 203-7600
Email: csanders@sanderslaw.group
Email: jmandel@sanderslaw.goup
File No.: 124912

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Circled Wagons Management LLC
d/b/a ABQ Raw,

Plaintiff,

v.

Chad Loder,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Circled Wagons Management LLC d/b/a ABQ Raw (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant Chad Loder (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C §501.

2. Plaintiff created a video of an individual being shot at an Antifa protest in Albuquerque, New Mexico (the “*Video*”) in which Plaintiff owns the rights and licenses for various uses including online and print publications.

1 United States Copyright Office (the “USCO”) which cover many of Plaintiff's videos
2 while many others are the subject of pending copyright applications.

3 13. Plaintiff's videos are original, creative works in which Plaintiff owns
4 protectable copyright interests.

5 14. On June 16, 2020, Plaintiff first published the Video. A copy of a
6 screengrab of the Video is attached hereto as Exhibit 1.

7 15. In creating the Video, Plaintiff personally selected the subject matter,
8 timing, lighting, angle, perspective, depth, lens and camera equipment used to
9 capture the video.

10 16. On June 18, 2020, the Video was registered by the USCO under
11 Registration No. PA 2-255-843.

12 17. Plaintiff created the Video with the intention of it being used
13 commercially and for the purpose of display and/or public distribution.

14 **B. Defendant's Infringing Activity**

15 18. Defendant is the operator of the Account and is responsible for its
16 content.

17 19. The Account is a key component of Defendant's popular and lucrative
18 commercial enterprise.

19 20. The Account is monetized in promotes Defendant's “brand” and
20 business services and, upon information and belief, Defendant profits from these
21 activities.

22 21. On or about June 17, 2020, Defendant displayed the Video on the
23 Account as part of a post at URL
24 <https://twitter.com/chadloder/status/1273134406065102850?s=20>. A copy of a
25 screengrab of the Account including the Video is attached hereto as Exhibit 2.

26 22. The Video was stored at URL:
27 <https://pbs.twimg.com/media/EasPrnSX0AAdQrP?format=png&name=900x900>.
28

1 23. Without permission or authorization from Plaintiff, Defendant
2 volitionally copied and/or displayed Plaintiff's copyright protected Video on the
3 Account.

4 24. Plaintiff first observed and actually discovered the this infringement on
5 September 4, 2020.

6 25. Upon information and belief, the Video was copied and displayed by
7 Defendant without license or permission, thereby infringing on Plaintiff's copyrights
8 in and to the Video (hereinafter the unauthorized use set forth above is referred to as
9 the "*Infringement*").

10 26. The Infringement includes a URL ("*Uniform Resource Locator*") for a
11 fixed tangible medium of expression that was sufficiently permanent or stable to
12 permit it to be communicated for a period of more than a transitory duration and
13 therefore constitutes a specific infringement. *17 U.S.C. §106(5)*.

14 27. The Infringement is an exact copy of Plaintiff's original video that was
15 directly copied and displayed by Defendant on the Account.

16 28. Upon information and belief, Defendant takes an active and pervasive
17 role in the content posted on its Account, including, but not limited to copying,
18 posting, selecting, commenting on and/or displaying videos including but not limited
19 to Plaintiff's Video.

20 29. Upon information and belief, the Video was willfully and volitionally
21 posted to the Account by Defendant.

22 30. Upon information and belief, the Infringement was not posted at the
23 direction of a "user", as that term is defined in 17 U.S.C. §512(c).

24 31. Upon information and belief, Defendant was aware of facts or
25 circumstances from which the determination regarding the Infringement was
26 apparent. Defendant cannot claim that it was not aware of the infringing activities,
27 including the specific Infringement which form the basis of this complaint, since
28

1 such a claim would amount to only willful blindness to the Infringement on the part
2 of Defendant.

3 32. Upon information and belief, Defendant engaged in the Infringement
4 knowingly and in violation of applicable United States copyright laws.

5 33. Upon information and belief, Defendant has the legal right and ability
6 to control and limit the infringing activities on its Account and exercised and/or had
7 the right and ability to exercise such right.

8 34. Upon information and belief, Defendant monitors the content on its
9 Account.

10 35. Upon information and belief, Defendant has received a financial benefit
11 directly attributable to the Infringement.

12 36. Upon information and belief, the Infringement increased traffic to the
13 Account and, in turn, caused Defendant to realize an increase its business.

14 37. Upon information and belief, a large number of people have viewed the
15 unlawful copies of the Video on the Account.

16 38. Upon information and belief, Defendant at all times had the ability to
17 stop the reproduction and display of Plaintiff's copyrighted material.

18 39. Plaintiff created the Video with the intention of it being used
19 commercially and for the purpose of display and/or public distribution.

20 40. Defendant's use of the Video harmed the actual market for the Video.

21 41. Defendant's use of the Video, if widespread, would harm Plaintiff's
22 potential market for the Video.

23 42. On June 28, 2023, Plaintiff, via counsel, served a letter by certified
24 mail, return receipt requested to Defendant seeking to address the complaints
25 contained herein concerning the Infringement, to no avail.

26 43. Despite Plaintiff's efforts and willingness to address Defendant's
27 infringing activity, Defendant has forced Plaintiff to seek redress via judicial
28

1 intervention for Defendant's infringing activity.

2 44. As a result of Defendant's misconduct, Plaintiff has been substantially
3 harmed.

4 **FIRST COUNT**

5 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

6 45. Plaintiff repeats and incorporates by reference the allegations contained
7 in the preceding paragraphs, as though set forth in full herein.

8 46. The Video is an original, creative work in which Plaintiff owns a valid
9 copyright.

10 47. The Video is properly registered with the USCO and Plaintiff has
11 complied with all statutory formalities under the Copyright Act and under
12 regulations published by the USCO.

13 48. Plaintiff has not granted Defendant a license or the right to use the
14 Video in any manner, nor has Plaintiff assigned any of its exclusive rights in the
15 copyright to Defendant.

16 49. Without permission or authorization from Plaintiff and in willful
17 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
18 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works
19 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its
20 copyrights.

21 50. Defendant's reproduction of the Video and display of the Video
22 constitutes willful copyright infringement.

23 51. Upon information and belief, Defendant willfully infringed upon
24 Plaintiff's copyrighted Video in violation of Title 17 of the U.S. Code, in that
25 Defendant used, published, communicated, posted, publicized, and otherwise held
26 out to the public for commercial benefit, Plaintiff's original and unique Video
27 without Plaintiff's consent or authority, by using it on the Account.
28

1 52. As a result of Defendant's violations of Title 17 of the U.S. Code,
2 Plaintiff is entitled to any an award of actual damages and disgorgement of all of
3 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
4 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
5 statutory damages against each Defendant for each infringement pursuant to 17
6 U.S.C. § 504(c).

7 53. As a result of the Defendant's violations of Title 17 of the U.S. Code,
8 the court in its discretion may allow the recovery of full costs as well as reasonable
9 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

10 54. As a result of Defendant's violations of Title 17 of the U.S. Code,
11 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his
12 copyright pursuant to 17 U.S.C. § 502.

13 **JURY DEMAND**

14 55. Plaintiff hereby demands a trial of this action by jury.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

17 That the Court enters a judgment finding that Defendant has infringed on
18 Plaintiff's rights to the Video in violation of 17 U.S.C. §501 *et seq.* and therefore
19 award damages and monetary relief as follows:

- 20 a. finding that Defendant infringed Plaintiff's copyright interest in
21 and to the Video by copying and displaying it without a license
22 or consent;
- 23 b. for an award of actual damages and disgorgement of all of
24 Defendant's profits attributable to the infringements as provided
25 by 17 U.S.C. § 504(b) in an amount to be proven or, in the
26 alternative, at Plaintiff's election, an award for statutory damages
27 against each Defendant for each infringement pursuant to 17
28

U.S.C. § 504(c), whichever is larger;

- c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- d. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- e. for pre-judgment interest as permitted by law; and
- f. for any other relief the Court deems just and proper.

DATED: August 15, 2023

SANDERS LAW GROUP

By: /s/ Jacqueline Mandel
Craig Sanders, Esq. (Cal Bar 284397)
Jacqueline Mandel, Esq. (Cal Bar 317119)
333 Earle Ovington Blvd, Suite 402
Uniondale, NY 11553
Tel: (516) 203-7600
Email: csanders@sanderslaw.group
Email: jmandel@sanderslaw.goup
File No.: 124912

Attorneys for Plaintiff